IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5416 OF 2006

1. Kum.Shruti Shridhar Uplap & Anr. .. Petitioners.

V/s.

State of Maharashtra & Ors. .. Respondents.

Mr.Y.S.Jahagirdhar, Sr.Counsel with R.K.Mendadkar & Helen K. Mandlik for the Petitioners.

Mrs.M.P.Thakur, AGP for the Respondents.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 12TH MARCH, 2007.

P.C.:

. Rule. Heard forthwith.

2. The contention urged on behalf of the petitioners is that the Member- Secretary participating in the scrutiny proceedings could not have held that post. The learned counsel for the petitioners points out to us from the Government Notification dated 4th of June, 2003 that Member-Secretary of the Schedule Tribe, Thane should be the Deputy Director (Research). The petitioner, admittedly, was a law officer. Nor is there any order brought to our notice, whereby the

D.R.Chaudhari was conferred the powers to act as a member secretary.

3. Our attention was also invited to the order passed in Writ Petition No. 4415 of 2006, where also the right of the D.R.Choudhary, to act as a member -secretary was set aside by the Division Bench of this Court. The learned Division Bench held that D.R.Chaudhari was not competent to hold the post. Considering the Government Notification and as admittedly D.R.Choudhary was a law officer, he could not have acted as member secretary to the scrutiny committee. A person, therefore, having sat on the committee without an authority of law, the entire decision will have to be set aside and the matter will have to be remanded back for considering afresh by the Committee constituted in terms of the Government Notification.

4. In the light of the above, the impugned order dated 28th April, 2006 is hereby quashed and set aside and the matter is remanded back to the Respondent No.2 Committee for reconsideration in accordance with the law and dispose of the same, in any event, not later than four months from today.

5. We make it clear that we have not gone into the merits of the matter and all contentions are left open for consideration.

6. Rule is made absolutely in the above terms with no order as to costs.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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